

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HEALTH AND HUMAN SERVICES**

IN THE MATTER OF:

██████████	MAHS Reg. No.:	15-020771 and 15-022328
██████████	Issue No.:	2001
████████████████████	Agency Case No.:	████████████████████
	Hearing Date:	January 21, 2016
	County:	Wayne-District 19

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

HEARING DECISION

Following Petitioner's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on January 21, 2016, from Detroit, Michigan. Petitioner appeared for the hearing with her father/Authorized Hearing Representative, ██████████. The Department was represented by Valarie Foley, Hearings Facilitator. As a preliminary matter, it should be noted that Petitioner submitted hearing requests on October 29, 2015, and November 9, 2015. The hearings were consolidated and both Reg. No. 15-020771 and Reg. No. 15-022328 were heard on January 21, 2016.

ISSUE

Did the Department properly process Petitioner's Medical Assistance (MA) benefits?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Petitioner was previously a recipient of SSI benefits and was receiving MA benefits under the MA for SSI Recipients category under case number ██████████ through August 31, 2015. (Exhibit B)
2. On an unverified date, Petitioner's receipt of SSI was terminated and she began receiving RSDI benefits. (Exhibit E)
3. Petitioner's MA coverage under case number ██████████ was transferred to the MA-Terminated SSI program for the period of September 1, 2015, to October 31, 2015. (Exhibit B)

4. On October 19, 2015, the Department sent Petitioner a Health Care Coverage Determination Notice informing her that effective November 1, 2015, she was ineligible for MA benefits on the basis that she failed to return a redetermination. (Exhibit A)
5. On or around October 26, 2015, Petitioner submitted an application for MA benefits.
6. On October 29, 2015, Petitioner requested a hearing disputing the case closure.
7. On November 9, 2015, the Department sent Petitioner a Health Care Coverage Determination Notice informing her that effective November 1, 2015, she was eligible for MA benefits with a monthly deductible of \$1153. Petitioner was given a new case number of [REDACTED]. (Exhibit C)
8. Petitioner was approved for MA benefits under the Group 2 Caretaker (G2C) program for the period of November 1, 2015, ongoing. (Exhibit F)
9. On November 18, 2015, Petitioner requested a hearing disputing the Department's actions with respect to the calculation of her MA deductible.
10. The October 29, 2015, hearing request was scheduled to be heard on January 21, 2016, and the November 18, 2015, hearing request was scheduled to be heard on February 4, 2016.
11. The hearings were consolidated and both hearing requests were addressed at a hearing held on January 21, 2016.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), Department of Health and Human Services Reference Tables Manual (RFT), and Department of Health and Human Services Emergency Relief Manual (ERM).

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department (formerly known as the Department of Human Services) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

Termination of MA for SSI Recipients MA

Additionally, Supplemental Security Income (SSI) is a cash benefit for needy individuals who are aged (at least 65), blind or disabled. The Social Security Administration (SSA) determines SSI eligibility. BEM 150 (October 2015), p. 1. SSI recipients are eligible for MA benefits, provided certain criteria are met. BEM 150, p. 1. When SSI benefits stop, the Department is to evaluate the reason based on the SSA's negative action code and either: close MA-SSI if SSI stopped for a reason that prevents continued MA eligibility (for example, death, moved out of state) or transfer the case to the SSI Termination (SSIT) type of assistance. BEM 150, p.6.

An ex parte review (see glossary) is required before MA closures when there is an actual or anticipated change, unless the change would result in closure due to ineligibility for all Medicaid. When possible, an ex parte review should begin at least 90 days before the anticipated change is expected to result in case closure. The review includes consideration of all MA categories; see BAM 115 and 220. BEM 150, pp. 6-7. A redetermination date is set for the second month after transfer to SSIT to allow for an ex parte review. BEM 150, pp. 6-7. The Department is to initiate a redetermination by sending the client a packet which includes an assistance application and a verification checklist (VCL). The Department then processes the application, initiates interview and intake and determines eligibility after sending out the appropriate disability forms and documenting all factors including disability and blindness. BEM 150, p.7. If the client is not eligible for any type of MA, the Department sends a negative action notice. BEM 150, p. 7.

In this case, the Department testified that because the type of social security benefit received by Petitioner changed from SSI to RSDI, she was no longer eligible for MA under the MA for SSI recipients MA program. The Department acknowledged that the reason for the intended action listed on the October 19, 2015, Health Care Coverage Determination Notice was incorrect and that it should have stated Petitioner's MA case is closing under case number [REDACTED] and being reopened under a new case number ([REDACTED]). (Exhibit A). A review of the SOLQ provided established that Petitioner's SSI benefits were terminated and that she began receiving RSDI benefits in the amount of \$2059. (Exhibit E). Thus, Petitioner was no longer eligible to receive MA under the MA for SSI recipients program. The Department established that Petitioner's MA coverage was properly transferred to the SSIT MA category through October 31, 2015, pending the review of her MA eligibility for other categories. (Exhibit B; Exhibit E).

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department acted in accordance with Department policy when it closed Petitioner's MA case under case number [REDACTED] and under the MA for SSI Recipients/ SSIT MA category.

Transfer to G2C MA with Monthly Deductible

The Department testified that after registering and processing the October 26, 2015, MA application submitted and reviewing Petitioner's eligibility for other MA programs, it determined that Petitioner was eligible to receive MA with case number 120809584 under the G2C program with a monthly deductible of \$1153 effective November 1, 2015, ongoing. The Department notified Petitioner of her MA eligibility by sending her a Health Care Coverage Determination Notice on November 9, 2015. (Exhibit C; Exhibit F).

Additionally, individuals are eligible for Group 2 MA coverage when net income (countable income minus allowable income deductions) does not exceed the applicable Group 2 MA protected income levels (PIL), which is based on shelter area and fiscal group size. BEM 135 (October 2015), p 1; BEM 544 (July 2013), p 1; BEM 545 (October 2015); RFT 200 (December 2013); RFT 240 (December 2013), p 1. The monthly PIL for Petitioner's one person fiscal group living in Wayne County is \$375 per month. BEM 211 (January 2015), pp.5-6; RFT 200, p 1; RFT 240, p 1.

A fiscal group is established for each person requesting MA and budgetable income is determined for each fiscal group member. BEM 211 (January 2015); BEM 536 (January 2014). In determining a person's eligibility and their fiscal group, however, the only income that may be considered is the person's own income and the income of the following persons who live with the client: the client's spouse, and the client's parents if the client is a child. This means that a child's income cannot be used to determine a parent's eligibility. BEM 211, p.5. A multi-step process is utilized when determining a fiscal group member's income and deductible. BEM 536, pp. 1-7. Thus, if Petitioner's net monthly income is in excess of the \$375, she may become eligible for assistance under the deductible program, with the deductible being equal to the amount that her monthly income exceeds \$375. BEM 545, p 1.

The Department presented a G2-FIP Related MA Net Income Budget which was reviewed to determine if the Department properly calculated the amount of Petitioner's monthly deductible under the G2C program. (Exhibit D). In this case, the Department stated that Petitioner's starting income for MA purposes was \$2059, which consisted of her monthly RSDI benefits. Petitioner's AHR confirmed the amount and the Department presented a SOLQ in support of its testimony. (Exhibit E).

Following the steps contained in BEM 536, the number of dependents (under the age of 18) living with the fiscal group member is also determined. This number is added to 2.9 to determine the prorated divisor. BEM 536, pp.1-5. In this case, because Petitioner had one child under age 18 living in the home, the prorated divisor is 3.9. BEM 536, pp. 3-5. After further review of the MA budget and based on the foregoing information, the Department properly determined that the prorated share of Petitioner's income was \$527 and that the total net income was \$1528. See BEM 536, pp. 1-7. Because Petitioner's net income of \$1528 exceeds \$375, the applicable PIL by \$1153, the

Department calculated Petitioner's \$1153 monthly deductible in accordance with Department policy.

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department acted in accordance with Department policy when it determined that Petitioner was eligible for MA under the G2C program with a monthly deductible of \$1153. There was some discussion at the hearing concerning the Department's failure to process medical expenses that were submitted, however, because the expenses were submitted after the hearing was requested, the failure to process is considered a subsequent action that requires a new hearing request. The Department acknowledged that the medical expenses should be processed and applied towards Petitioner's monthly deductible for the applicable months and in accordance with BEM 545.

DECISION AND ORDER

Accordingly, the Department's MA decisions are **AFFIRMED**.



Zainab Baydoun

Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **2/16/2016**

Date Mailed: **2/16/2016**

ZB / tlf

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days of the receipt date. A copy of the claim or application for appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Hearing Decision from MAHS within 30 days of the mailing date of this Hearing Decision, or MAHS may order a rehearing or reconsideration on its own motion. MAHS may grant a party's Request for Rehearing or Reconsideration when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The party requesting a rehearing or reconsideration must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

cc: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]